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Conditions of service and compensation for officials other than Secretariat officials

Members of the International Court of Justice

Judges of the International Tribunal for the Former Yugoslavia

Judges of the International Criminal Tribunal for Rwanda

Ad litem judges of the International Tribunal for the Former Yugoslavia

Report of the Secretary-General

Introduction

1. The General Assembly, in section VIII, paragraph 7, of its resolution 53/214 of 18 December 1998, decided that the emoluments, pensions, and other conditions of service for the members of the International Court of Justice (ICJ), the judges of the International Tribunal for the Former Yugoslavia (ICTY) and the judges of the International Criminal Tribunal for Rwanda (ICTR) should be reviewed at its fifty-sixth session.

2. Furthermore, in paragraph 2 of its resolution 55/249 of 12 April 2001, the General Assembly also decided to review the emoluments and other conditions of service for the ad litem judges of ICTY.

3. In order to facilitate consideration of the various issues regarding the compensation and conditions of service of members of the Court, the judges of ICTY, the judges of ICTR and the ad litem judges of ICTY, the present report is presented in three parts. Part one is devoted to the members of ICJ, part two focuses on the judges of ICTY, the judges of ICTR and the ad litem judges of ICTY. Part three contains an analysis and recommendations concerning: remuneration,

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including adjustment for currency fluctuation and cost of living; other conditions of service, including pensions; financial implications; and the next comprehensive review.

Part one

I. Members of the International Court of Justice

A. Remuneration

Background

4. Article 32 of the Statute of the International Court of Justice provides, inter alia, that each member of the Court shall receive an annual salary (para. 1), that these salaries and allowances "shall be fixed by the General Assembly" and that "they may not be decreased during the term of office" (para. 5).

5. Since 1976, the General Assembly has conducted periodic reviews of the emoluments of the members of the Court, with the last comprehensive review having been undertaken at the fifty-third session of the Assembly. On that occasion, the Secretary-General, in paragraph 19 of his report (A/C.5/53/11), expressed the belief that it would seem reasonable that measures should be taken to restore the purchasing power of the emoluments of the judges and, consequently, he recommended that action should be taken to increase the level of remuneration of the members of the Court from US$ 145,000 to US$ 164,500. The Advisory Committee on Administrative and Budgetary Questions, in paragraph 8 of its report (A/53/7/Add.6), stated that, after careful consideration and analysis of the proposal of the Secretary-General and taking into account the increase in the consumer price index (CPI) in The Hague since the most recent salary increase granted by the General Assembly in 1990, it recommended that the annual salary of the members of the Court should be set at $160,000, effective 1 January 1999, with the next review to take place no later than three years from 1 January 1999. The amount recommended by the Advisory Committee took into account that the practice in the United Nations had been to adjust remuneration to a level somewhat less than 100 per cent with respect to the movement of the CPI.

6. The General Assembly, in section VIII, paragraph 1, of its resolution 53/214, agreed with the Advisory Committee's recommendation to increase the salary of the members of ICJ to US$ 160,000 per annum.

7. The emoluments of the members of the Court are sui generis. However, on the occasion of the periodic comprehensive reviews of the emoluments and conditions of service of the members of the Court, information on the net remuneration of senior Secretariat officials, of the Chairman of the Advisory Committee on Administrative and Budgetary Questions, of the Chairman and the Vice-Chairman of the International Civil Service Commission, and of the members of the Joint Inspection Unit, as well as the gross emoluments of the president and members of the highest courts in national judiciaries of a number of States and of international courts have been provided as reference points for purposes of comparative assessment.

8. The annexes to the present report contain updated information concerning the evolution of emoluments from January 1998 to June 2001. Annex I presents a

comparison of the movement of the judges' total emoluments with changes in the remuneration of senior Secretariat officials and that of full-time members of other subsidiary bodies of the United Nations. Annex II provides information obtained, with the assistance of permanent missions to the United Nations, on the movement in gross emoluments of the president and members of the highest courts in a number of national judiciaries. It also presents information on the movement in emoluments of the president and members of the Court of the European Communities in Luxembourg and of the Iran-United States Claims Tribunal in The Hague, as well as the emoluments of the president and members of the European Court of Human Rights in Strasbourg.

Currency floor/ceiling mechanism

9. It will be recalled that in April 1987, the International Civil Service Commission had introduced the concept of a local currency floor and ceiling at a number of duty stations, including The Hague, to protect staff against the weakening of the dollar. Paragraphs 11 through 15 of the Secretary-General's report to the General Assembly at its forty-eighth session (A/C.5/48/66) provide the background and discuss the functioning of the floor/ceiling system, as applied to the emoluments of the members of the Court.

10. Based on the methodology proposed by the Secretary-General, and as recommended by the Advisory Committee and approved by the General Assembly, the floor/ceiling rates are set at 4 per cent below and 4 per cent above the average exchange rate of the guilder vis-à-vis the United States dollar of the previous year. This mechanism has continued to be applied since the last comprehensive review of the emoluments and conditions of service for the members of the Court. For the year 1998, the average exchange rate was 2.00 guilders = $1.00. On that basis, for 1999, the floor/ceiling exchange rates were set at 1.92 and 2.08 guilders, respectively. The floor exchange rate of 1.92 guilders to the dollar resulted in a currency floor of 25,600 guilders per month and the ceiling exchange rate of 2.08 guilders to the dollar resulted in a currency ceiling of 27,733 guilders per month.

11. For the year 1999, the United States dollar strengthened vis-à-vis the guilder and the average exchange rate was 2.06 guilders = $1.00. On that basis, for 2000, the floor/ceiling exchange rates were revised to 1.98 and 2.14 guilders, respectively. The floor exchange rate of 1.98 guilders to the dollar resulted in a currency floor of 26,400 guilders per month and the ceiling exchange rate of 2.14 guilders to the dollar resulted in a currency ceiling of 28,533 guilders per month.

12. For the year 2000, the United States dollar strengthened significantly vis-à-vis the guilder and the average exchange rate was 2.38 guilders = $1.00. On that basis, for 2001, the floor/ceiling exchange rates were revised to 2.29 and 2.48 guilders, respectively. The floor exchange rate of 2.29 guilders to the dollar resulted in a currency floor of 30,533 guilders per month and the ceiling exchange rate of 2.48 guilders to the dollar resulted in a currency ceiling of 33,067 guilders per month.

13. Table 1 presents the official exchange rate for the guilder against the dollar for the period from January 1998 to November 2001.

Table 1
Exchange rate of the guilder to the dollar January 1998-November 2001

Month	*1998*	*1999*	*2000*	*2001*
January	2.02	1.88876	2.19269	2.36833
February	2.06	1.93265	2.23897	2.39764
March	2.02	1.99876	2.27643	2.40425
April	2.08	2.05386	2.29847	2.49240
May	2.02	2.0803	2.38662	2.46154
June	2.00	2.10454	2.35356	2.57173
July	2.04	2.13319	2.3161	2.59156
August	2.04	2.06267	2.38441	2.51664
September	2.03	2.10675	2.47036	2.42408
October	1.89	2.0803	2.48799	2.39984
November	1.86	2.09793	2.6114	2.42408
December	1.92	2.18828	2.54771	

14. During the period from January 1999 to November 2001, the floor amount has been payable for 2 months and the ceiling amount for 29 months. On this basis, it can be seen that the floor/ceiling mechanism used to regulate emoluments against the weakening/strengthening of the dollar has served to limit the diminution of the emoluments of the members of ICJ expressed in guilders when the dollar weakened against the guilder, as well as restricting the increase in the judges' emoluments, particularly in 2000, when the dollar strengthened against the guilder.

15. According to official statistics of the Netherlands provided by the Court, the consumer price index for the Netherlands for the period from 1 January 1999 to 31 March 2001 increased by 8.15 per cent. Over the three-year period 1999-2001, the United States dollar gained, on average, 19 per cent against the guilder.

B. Other conditions of service

16. The background of other conditions of service of the members of ICJ is provided in the report of the Secretary-General to the General Assembly at its forty-eighth session (A/C.5/48/66): in section IV (paras. 16-21), concerning the special allowances of the President and of the Vice-President when acting as President; in section V (paras. 22 and 23), relating to compensation of ad hoc judges; and in section VI (paras. 24-31), pertaining to the costs of educating children.

Special allowance for the President and for the Vice-President when acting as President

17. Article 32 of the Statute of the Court provides that the President shall receive a special annual allowance (para. 2) and that the Vice-President shall receive a special allowance for each day on which he acts as President (para. 3). As is the case with remuneration, these allowances "shall be fixed by the General Assembly" and "may not be decreased during the term of office" (para. 5). The General Assembly, in its

resolution 31/204 of 22 December 1976, provided that the allowances "shall be reviewed concurrently with the periodic review of their annual salary" (para. 3).

18. By section IV, paragraph 2, of its resolution 50/216, of 23 December 1995, the General Assembly decided that the President's special allowance should remain at $15,000 a year and that the special daily allowance paid to the Vice-President when acting as President should remain at $94 per day, subject to a maximum of $9,400 per year.

19. With regard to the President's special allowance and the special daily allowance for the Vice-President when acting as President, the Court has made representations that, although its workload has increased dramatically, both the aforementioned allowances have remained unchanged since 1985, when the President's special allowance was fixed at $15,000 per annum and the special allowance for the Vice-President when acting as President was set at $94 per day, subject to a maximum of $9,400 per year.

20. In its correspondence dated 4 May 2001, the Registry of the Court has recalled that, prior to 1980, the President's special allowance had historically been set at 24 per cent of salary. Similarly, the special daily allowance for the Vice-President when acting as President had been set at a ceiling amount equivalent to 62.5 per cent of the President's allowance for 100 days as Acting President. On the occasion of the 1980 periodic review, no increase in the allowance was proposed, although the annual base salary rose by 40 per cent (from $50,000 to $70,000). The President's allowance remained at 24 per cent of $50,000, i.e. $12,000. In 1983, the Secretary-General suggested that the 24 per cent relationship between the special allowance of the President and the annual base salary should be restored, thereby raising the allowance from $12,000 to $16,000 as of 1 January 1985. It was also proposed that the allowance of the Vice-President should be increased by a corresponding amount, from $76 to $104 per day. The Advisory Committee did not support the proposal of the Secretary-General. It was of the view that a fixed ratio between the special allowances and the annual base salary should not be applied and, in 1985, the allowance was set at a flat amount of $15,000. From 1981 to 1985, the allowance represented 17.4 per cent of the annual base salary and 14.6 per cent of the adjusted emoluments, including the cost-of-living supplement (base salary of $70,000 + cost-of-living supplement of $12,000 = $82,000).

21. The Registry also wished to recall that, as a result of the most recent review of conditions of service the principle that pensions should be linked to salary was reinstated. If the same principle were to be applied to the President's allowance and the allowance were to be set at its historic level of 24 per cent of emoluments, the allowance would be $38,400 and the ceiling for the allowance of the Vice-President would be set at $24,000. Based on cost-of-living movements in the Netherlands since 1985, as supported by the statistics from the Central Bureau of Statistics, the President's allowance would be raised to a minimum of $20,760 and the allowance for the Vice-President to a minimum of $13,000.

22. Consideration could thus be given to revising the President's allowance, bearing in mind both the dramatic increase in the caseload of the Court since 1985 (and the associated demands upon the office of the President) and the erosion of the value of the allowance since 1985. The Registry of the Court is therefore recommending that the President's allowance be increased, with a similar percentage increase in the allowance of the Vice-President when acting as President.

Ad hoc judges

23. Turning to the issue of compensation of ad hoc judges, under Article 31 of the Statute of the Court, persons whom parties to cases before the Court choose "to take part in the decision on terms of complete equality with their colleagues" (para. 6) are known as ad hoc judges. Further to Article 32, paragraph 4, of the Statute, they "shall receive compensation for each day on which they exercise their functions". The historical background to the determination of the amount of that compensation was presented in the report of the Secretary-General to the General Assembly at its fortieth session (A/C.5/40/32, paras. 35-41).

24. The General Assembly, in paragraph 3 of its resolution 48/252 A of 26 May 1994, decided that, with effect from 1 January 1994, the ad hoc judges referred to in Article 31 of the ICJ Statute should receive for each day they exercise their functions one three-hundred-and-sixty-fifth of the annual salary payable at the time to a member of the Court. On the occasion of the 1995 review, the Secretary-General proposed that no change should be made in those arrangements. The Assembly, in section IV, paragraph 2, of its resolution 50/216, concurred with the proposal. On the occasion of the 1998 periodic review, the Secretary-General once again proposed that no change should be effected in those arrangements. The Assembly, in section VIII, paragraph 1, of its resolution 53/214, concurred with the proposal.

Assistance with education costs

25. The background to the issue of assistance with education costs, as applied to the members of the Court, is provided in paragraphs 24 through 29 of the report of the Secretary-General to the General Assembly at its forty-eighth session (A/C.5/48/66). In his report to the Assembly at the fifty-third session, the Secretary-General proposed that, further to resolution 45/250 C of 21 December 1990, the increase in the level of education grant (including for disabled children) effective 1 January 1997, applicable to staff in the Professional and higher categories approved by the General Assembly in resolution 51/216 of 18 December 1996, should be extended, under the same conditions, to the members of the Court, as from the school year in progress on 1 January 1998. He also recommended that any decision taken by the General Assembly at its fifty-third session to update the levels of the education grant or changes in the provisions regarding disabled children should be extended to the members of the Court (A/C.5/53/11, paras. 30 and 31). In paragraph 11 of its report (A/53/7/Add.6), the Advisory Committee recommended approval of the Secretary-General's proposals. The General Assembly, in its resolution 53/214, concurred with the Advisory Committee's recommendations, and on that basis, the increase in the level of education grant (including for disabled children) effective 1 January 1999, applicable to staff in the Professional and higher categories approved by the General Assembly in section II of its resolution 53/209 of 18 December 1998 was also extended, under the same conditions, to the members of the Court, as from the school year in progress on 1 January 1999.

Travel and subsistence regulations

26. The General Assembly, by its resolution 37/240 of 21 December 1982, approved the Travel and Subsistence Regulations of the International Court of Justice. The Regulations came into effect as from 1 January 1983 and have remained unchanged since that time.

Health insurance

27. With regard to participation of the members of the International Court in the Organization's health plan and the Organization's contribution to the charges to sustain participation therein in a manner comparable to the health contributions made by the United Nations for other such officials, the Secretary-General, in paragraph 23 of his report to the General Assembly at its fiftieth session (A/C.5/50/18), reiterated the view expressed previously that, while the Secretary-General and the two full-time members of the International Civil Service Commission and the Chairman of the Advisory Committee were participants in the Headquarters health plan, the Organization did not contribute to the cost of participation. Members of the Court had the option of enrolling in the joining Delta Lloyd health insurance plan and were responsible for payment of the full cost of the premium.

28. With regard to the participation of members of the Court in health insurance plans of the United Nations system, the Advisory Committee, in paragraph 10 of its report,[1] indicated its understanding that the members of the Court would cover the total cost of their participation and that the Organization would not have to contribute at all to the cost of their participation. In that regard, the Advisory Committee did not have any objection to their participation, provided that the members of the Court meet the same requirements for participation as those met by the full-time members of subsidiary bodies who are participants in the health insurance plans at their own cost.

Pensions

29. The members of ICJ are entitled to retirement pensions the specific conditions of which, in accordance with Article 32, paragraph 7, of the Statute of the Court, are governed by regulations adopted by the General Assembly. The Assembly, in paragraph 1 of its resolution 48/252 B, of 26 May 1994, invited the Secretary-General to undertake a study of the pension scheme for the members of the Court and to report thereon to the Assembly at its forty-ninth session.

30. A review of the pension benefits and the corollary aspects of the current pension scheme were presented by the Secretary-General in his reports to the General Assembly at its forty-eighth and forty-ninth sessions (A/C.5/48/66, paras. 32-41 and A/C.5/49/8, paras. 6-16). In reviewing the latter report, the Advisory Committee reiterated its 1994 recommendation that it was not necessary to recommend a change in the pension benefits of the members of the Court. The Committee expressed the view that the request by the General Assembly for a study of the pension scheme for the members of the International Court of Justice had not been fully addressed. It recommended that the Secretary-General include a comprehensive review of the pension scheme for the members of the Court in his report to be submitted to the General Assembly at its fiftieth session. The report should include, on the advice of qualified actuaries, a review of benefit provisions, including those of retirement age, minimum period of service, rate of accumulation of pension benefits, early retirement benefits, contributory participation, cost-of-living adjustments and retroactive rights of pensioners.[2]

31. Pursuant to the request of the Advisory Committee, the Secretary-General sought the advice of a consulting actuary on the pension scheme of the members of ICJ. The text of the comprehensive actuarial review conducted by the consultant is contained in the annex to the report of the Secretary-General to the General Assembly at

its fiftieth session (A/C.5/50/18). Based on the findings of the consultant's report, the Secretary-General concluded that the review corroborated most of the recommendations he had presented to the General Assembly at its forty-eighth session (A/C.5/48/66, paras. 32-41). On that basis, the Secretary-General recommended that:

(a) The pensionable remuneration of a judge should be defined as being equal to half the annual salary;

(b) The pension should constitute the pensionable remuneration of a judge who completes a nine-year term, with a proportional reduction for a judge who has not completed a full term. A judge who is re-elected should receive 1/300th of his pensionable remuneration for each further month of service, up to a maximum pension of two thirds of annual salary;

(c) The pension scheme should remain non-contributory;

(d) An actuarial reduction factor at a rate of one half one per cent per month should be applied in a case of early retirement;

(e) Surviving spouses should receive a pension equal to 60 per cent of a judge's pension; alternatively, judges could opt to increase a spouse's pension up to a maximum of a further 50 per cent by means of an actuarial reduction in their pension;

(f) Upon remarriage, a surviving spouse should be granted a lump sum equal to twice the amount of the spouse's current annual benefit as a final settlement.[3]

32. However, in reviewing the Secretary-General's recommendations, the Advisory Committee, in paragraph 12 of its report,[4] expressed its belief "that the various recommendations and options discussed in the report of the consulting actuary should have been analysed in the main text of the report of the Secretary-General. In particular, the rationale for the recommendations of the Secretary-General, as mentioned in paragraphs 27 (a) to (f) of the report, should have been explained in the main body of the report and cross-referenced to the corresponding paragraphs in the report of the consulting actuary in the annex." The Advisory Committee therefore recommended "that the Secretary-General [should] re-examine the pension scheme of the members of the Court in a report that takes full account of the request of the [Advisory] Committee". The General Assembly concurred with the recommendation of the Advisory Committee.[5]

33. In response to the Assembly's request,[6] the Secretary-General, in his report to the General Assembly at its fifty-third session, provided an analysis of the actuary concerning pensions. The analysis covered the design of the pension scheme, the methodology used to determine pensionable remuneration, contributory participation, and retirement benefits, including early retirement and surviving spouse pension benefits.

34. Based on the analysis and findings of the consulting actuary's report, the Secretary-General believed that the pension scheme for the members of ICJ should provide adequate after-service benefits to judges having met the requisite eligibility criteria relating to retirement age and period of service based on the premise that the pension benefit maintained a standard of living as replacement income.

35. Based on the consulting actuary's recommendations vis-à-vis the pension scheme for the members of the Court, the Secretary-General recommended that:

(a) The pensionable remuneration, or retirement pension, of a judge should be defined as being equal to half the annual salary;

(b) The pension benefit should constitute the retirement pension of a judge who completes a nine-year term, with a proportional reduction for a judge who has not completed a full term. A judge who is re-elected should receive 1/300th of his pension benefit for each further month of service, up to a maximum pension of two thirds of annual salary;

(c) The pension scheme should be non-contributory;

(d) An actuarial reduction factor at a rate of one half one per cent per month should be applied in a case of early retirement;

(e) Surviving spouses should receive a pension equal to 60 per cent of a judge's pension; alternatively, judges could opt to increase a spouse's pension up to a maximum of a further 50 per cent by means of an actuarial reduction in their pension;

(f) Upon remarriage, a surviving spouse should be granted a lump sum equal to twice the amount of the spouse's current annual benefit as a final settlement.

36. However, in order to avoid a disproportionate increase in pension, the Secretary-General proposed that the recommendation to base the retirement pension at half the annual salary shall be implemented in two stages; half to come into force as of 1 January 1999 and half as of 1 January 2000 (A/C.5/53/11, paras. 39-41).

37. The Advisory Committee, in paragraphs 15 to 17 of its report (A/53/7/Add.6), agreed with recommendations 40 (a), (c), (d) and (f) of the Secretary-General in paragraph 35 above, as reflected in his report (A/C.5/53/11, para. 40), concerning revisions to the pension scheme regulations of the members of ICJ. However, with regard to recommendation (b), the Advisory Committee recommended a proportional reduction for a judge who has not completed a full nine-year term, and also recommended no increase in pension for service beyond nine years. With regard to recommendation (e), the Advisory Committee recommended that the 50 per cent basis should also be applied to surviving spouses' pensions. Concerning the implementation of the revised retirement pension, the Advisory Committee was of the opinion that it would be more desirable to implement the Secretary-General's recommendation in three stages instead of two: under the first, effective 1 January 1999, the pension benefit would increase by 20 per cent, to $60,000; under the second, effective 1 January 2000, the level would increase another 16.7 per cent, to $70,000; and under the last one, effective 1 January 2001, the level would increase by a further 14.3 per cent, to $80,000.

38. In paragraphs 18 to 21 of its report (A/53/7/Add.6), the Advisory Committee pointed out that the pension benefit would be based on half the annual salary of $160,000, i.e. $80,000. Under the circumstances, the Advisory Committee did not believe that it was necessary to continue current provisions affecting pension benefits for judicial service in excess of nine years, especially since the Court pension scheme was non-contributory, and recommended that, henceforth, there should no longer be an increase in pension benefit for re-elected judges. The Advisory Committee also recommended that pensions in payment should be automatically revised by the same percentage and on the same date as salary adjustments. If the General Assembly were to accept this latter recommendation, a

revision of article 7, paragraph 2, of the Pension Scheme Regulations for Members of the International Court of Justice would be required.

39. The General Assembly, in section VIII, paragraph 1, of its resolution 53/214, approved the recommendations of the Advisory Committee on the emoluments, pensions and other conditions of service of the members of ICJ. In paragraph 2 of the same resolution, the Assembly concurred with the observation made by the Advisory Committee in paragraph 21 of its report (A/53/7/Add.6), regarding a revision to article 7, paragraph 2, of the Pension Scheme Regulations for Members of the International Court of Justice to read as follows: "Pensions in payment shall be automatically revised by the same percentage and at the same date as salary adjustments."

40. Concerning pensions in payment, the Registrar of the Court has provided the Secretariat with a table listing pensions in payment and observes that pensions are disproportionate for retired members of the Court and/or surviving spouse. For example, a member of the Court retiring in 1990 after nine years of service would receive an initial pension of $41,000, rising to $55,170 in 1999 (after increments of 22 per cent and 10.3 per cent), whereas a member of the Court retiring after 1999 after nine years of service would receive a pension of $80,000. Similar examples were found with pensions set prior to 1990, set unfortunately as a percentage of a salary when salary was recognized to be extraordinarily low.

41. In order to rectify this inequity and to have all former members of the Court treated equally, under the current regime, pensions in payment should ideally be aligned with pensions. However, the Advisory Committee in its report in 1998 (A/53/7/Add.6) considered that such an alignment would not be advisable because it would entail considerable expense for the United Nations. In view of this, the Court is not asking for alignment of pension *stricto sensu*. However, concerned as it is by the level of pension payments to former members, the Court would appreciate it if steps could be taken to remedy this disparity in payments by an increase, to the extent possible, in pension payments to its former members.

Part two

I. Judges of the International Tribunal for the Former Yugoslavia and judges of the International Criminal Tribunal for Rwanda

A. Introduction

Background

42. By its resolution 827 (1993) of 25 May 1993, the Security Council decided to establish ICTY and adopted its statute. Article 13 bis, paragraph 3, of the statute of the Tribunal, as amended by the Council on 30 November 2000 in resolution 1329 (2000), provides that the terms and conditions of service shall be those of the judges of the International Court of Justice. By its resolution 955 (1994) of 8 November 1994, the Security Council decided to establish ICTR and adopted its statute. Article 12, paragraph 4, of the statute of the Tribunal, as amended by the Council in

resolution 1329 (2000), provides that the terms and conditions of service shall be those of the judges of the International Tribunal for the Former Yugoslavia.

43. In his report to the General Assembly at its fifty-third session (A/C.5/53/11), the Secretary-General made proposals for revised salaries and revised pensions for the members of ICJ, and corresponding revisions to the salaries and pensions of the judges of the International Tribunals in the light of what the Assembly might determine for the members of ICJ. The General Assembly also had before it the report submitted at the fifty-second session by the Secretary-General on the conditions of service for the judges of the two International Tribunals (A/52/520).

44. The General Assembly, in section VIII, paragraph 4 of its resolution 53/214, approved the recommendations of the Advisory Committee on the emoluments, pensions and other conditions of service of the judges of ICTY and the judges of ICTR.

B. Remuneration

45. As a result of the action taken by the General Assembly in section VIII, paragraph 4, of its resolution 53/214, the annual salary of the judges of ICTY and the judges of ICTR was set at $160,000 per annum.

C. Other conditions of service

46. As indicated above, the General Assembly, in section VIII, paragraph 4, of its resolution 53/214, approved the recommendations of the Advisory Committee on, inter alia, the other conditions of service of the judges of ICTY and the judges of ICTR. The background on other conditions of service of the judges of the two Tribunals provided in the report of the Secretary-General to the General Assembly at its fifty-second session (A/52/520, paras. 19-21). These other conditions of service included: the special allowance of the President and Vice-President when acting as President, education allowance, retirement benefits, and travel and subsistence regulations.

Special allowance of the President and of the Vice-President when acting as President

47. The special allowance of the President of ICTY and the President of ICTR was set at $15,000 per annum. The special allowance for the Vice-President of ICTY and the Vice-President of ICTR was set at $94 per day up to a maximum of $9,400 per year.

Assistance with education costs

48. The General Assembly, in section VIII, paragraph 1, of its resolution 53/214, concurred with the recommendations of the Advisory Committee concerning updating the levels of education grant for the members of ICJ and, on that basis, the increase in the level of education grant (including for disabled children), effective 1 January 1999, applicable to staff in the Professional and higher categories approved by the General Assembly in section II of its resolution 53/209 was also extended, under the same conditions, to the members of the Court and the judges of ICTY and ICTR, as from the school year in progress on 1 January 1999.

Travel and subsistence regulations

49. In section VIII, paragraph 5, of its resolution 53/214, the General Assembly approved the travel and subsistence regulations for the judges of the International Tribunals contained in annex III to the report of the Secretary-General (A/52/520).

Survivors' benefit

50. Concerning the establishment of a survivors' lump-sum benefit in the event of the death of serving judges of ICTY and the judges of ICTR, based on its consideration of the note by the Secretary-General (A/C.5/54/30), the General Assembly, in paragraph 7 of its resolution 54/240 A of 23 December 1999, approved the recommendations of the Advisory Committee (A/54/646, para. 75) and established a lump-sum benefit whereby survivors would be compensated in the form of a lump sum equivalent to one month of base salary for each year of service, subject to a minimum of one month and a maximum of four months.

Health insurance

51. The President of ICTR has written to the Secretary-General drawing his attention to a number of matters which have been deemed to relate exclusively to the conditions of service of the judges of ICTR serving at Arusha. One of these matters concerns health insurance. The President indicates that resolution 53/214 does not provide any United Nations health insurance coverage entitlements for ICJ, ICTY or ICTR judges. As a result of this lacuna, she continues, previous enrolment requests from ICTR judges have not been accepted, on the basis of the non-eligibility of the judges for the United Nations insurance scheme. The reason given was that there was no entitlement for insurance coverage in the conditions of service for the judges.

52. She suggests, in connection with the comprehensive review of the conditions of service of the members of ICJ, the judges of ICTY and the judges of ICTR, that it would be appropriate if the General Assembly would decide to establish a health insurance coverage entitlement for the ICTR judges. In favour of her proposal, she has identified the following specific reasons that arise from special circumstances due to the location of the Arusha duty station:

(a) The duty station Arusha is already classified as "hardship area C";

(b) The serious lack of medical facilities and service is a dominant characteristic of the duty station;

(c) The ICTR judges are exposed to the risk of malaria and other tropical illnesses and have been obliged to travel outside the United Republic of Tanzania even for routine medical check-ups, as well as for medical treatments and to meet pharmaceutical and dietary needs;

(d) Such special circumstances under which the ICTR judges work are not the same as the conditions prevalent at, for example, The Hague;

(e) It seems inconceivable not to provide the ICTR judges with an insurance coverage entitlement with subsidies payable by the United Nations when they are serving in East Africa at a well-recognized hardship post;

(f) It also appears inadmissible not to allow ICTR judges to participate in the health insurance plan of the United Nations and to benefit from the group premium rate.

Issues related to the hardship classification of the duty station

53. The President of ICTR also recalls that, under the current system, ICTR judges' entitlements are based on those of ICTY, which in turn are based on those of ICJ. She points out that the issue of basing the entitlements of Tribunal judges on the conditions applicable to a particular duty station was not discussed during the debate in the General Assembly in 1998. However, unlike their colleagues at The Hague, which is classified at level A, she indicated that the ICTR judges are working under conditions which have led to the classification of Arusha as a "Hardship C" duty station.

54. With regard to the issue of the application of certain entitlements which may arise based on the hardship classification of duty stations, the Secretary-General would recall that the Office of Legal Affairs was requested to provide guidance concerning the payment of installation grant to the judges of ICTR as provided for under article III of the travel and subsistence regulations of the judges of ICTY and the judges of ICTR. The Office of Legal Affairs confirmed that the provisions of resolution 53/214 appear to confer upon the judges, upon their taking up residence at the pertinent Tribunal, an entitlement to be paid an installation grant at the level which is currently applicable to senior officials of the Secretariat of the United Nations serving at that same duty station.

55. The President has specified that, in spite of the establishment of this principle, there is still a lack of clarity concerning the entitlements of the ICTR judges, in the light of the fact that Arusha has been classified as a "Hardship C" duty station. In that regard, she feels that there is a need to address, inter alia, the issue of annual home leave. She recalls that the statute of ICTR provides, in article 12, paragraph 4, that the terms and conditions of service for the judges of ICTR shall be those of the judges of ICTY, and she points out that this is a general principle that does not exclude that there may be a difference between duty stations of the judges of the two Tribunals.

56. She further specifies that, unlike their colleagues from ICTY, the judges of ICTR are working in Arusha, which has been officially recognized as a "hardship C" duty station, where home leave entitlement for staff of the Tribunal is once every 12 months. Consequently, it would seem logical, since the cycle of home leave normally reflects the hardship factor at the duty station, that this hardship factor should be made applicable to the judges' home leave.

57. She stresses that all persons working at the Tribunal are exposed to the risks of malaria and other tropical illnesses, and that they have been obliged to travel out of the United Republic of Tanzania for routine medical check-ups as well as for medical treatments and to meet medical, pharmaceutical and dietary needs. Furthermore, it is well known that in Arusha there is serious lack of medical facilities and services, and this has recently been stressed in a medical evaluation initiated by Headquarters.

58. It cannot be denied, she continues, that the conditions under which the judges of ICTR work and live are the same as the conditions of the staff members of the

Tribunal, and there is no reason to treat judges differently in respect of home leave. The judges realize that they are not staff members and are not comparing themselves with staff members: what they are emphasizing is that they are all subject to the same conditions which gave rise to the Arusha duty station being classified as a hardship post.

59. The President concludes by stating that, in spite of the undeniable hardship conditions, the judges are not claiming hardship allowances. What is being sought is to obtain annual home leave, which will facilitate medical check-ups.

Pensions

Background

60. In paragraphs 63 and 64 of his report (A/C.5/53/11), the Secretary-General referred to the terms and conditions of service of the judges of ICTY, which, according to article 13 bis, paragraph 3, of the statute of the Tribunal, are those of the judges of ICJ; and those of ICTR, which according to article 12, paragraph 4, of its statute, are those of ICTY. The report further indicated that the General Assembly, in its review of the report of the Secretary-General on the subject (A/52/520), and upon the recommendation of the Advisory Committee, agreed in its resolutions 52/217 and 52/218 of 22 December 1997 to defer consideration of the conditions of the pension entitlement for the members of the two Tribunals until the review on the emoluments and pension scheme of the members of the ICJ.

61. In paragraph 29 of its report (A/53/7/Add.6), the Advisory Committee recommended that the pension benefit for the judges of ICTY and ICTR should be based on that applicable to the judges of ICJ, prorated to account for the difference in length in the terms of appointment, that is to say, nine years for the members of the ICJ versus four years for the judges of both Tribunals. On that basis, and using the phase-in formula the Advisory Committee recommended for the judges of ICJ, the retirement allowance for judges of ICTY and ICTR having served a full four-year term would rise to $35,500 by 1 January 2001.

62. The General Assembly, in section VIII, paragraph 4, of its resolution 53/214, approved the recommendations of the Advisory Committee on the emoluments, pensions and other conditions of service of the judges of ICTY and the judges of ICTR. In paragraph 6 of the same resolution, the Assembly approved the pension scheme regulations for the judges of ICTY and the pension scheme regulations for the judges of ICTR contained in annexes IV and V, respectively, to the report of the Secretary-General (A/52/520), with consequential modifications resulting from the decisions taken by the General Assembly in the resolution.

63. The Registry of ICTY has written to the Secretariat to share concerns that have been expressed by the judges of the Tribunal regarding the pension scheme regulations approved by the General Assembly at its fifty-third session. Reference was made to substantial differences that would arise between the pension benefits that ICTY judges and ICJ judges will receive upon retirement. The view was expressed that those differences would appear to run contrary to article 13 bis, paragraph 3, of the ICTY statute, which provides that the terms and conditions of ICTY judges shall be those of ICJ. Further reference was made to a marked difference that results from transposing a nine-year term into a four-year term. The

former Registrar of the Tribunal has expressed the view that the disparity in this case is to the disadvantage of the ICTY judges.

64. In this respect, the Secretary-General would wish to present some of the arguments he has received from the former Registrar of the ICTY, as follows:

> "If one compares the ICTY judges' situation to that of the ICJ judges after eight years, the ICTY judge would receive 8/27ths, or approximately 30 per cent, of his or her annual salary as a pension benefit ... after nine years, the pension of ICJ judges rises to an equivalent of 50 per cent of their annual salary, whereas the pension of the ICTY judges is fixed under the current regulations at the equivalent of 8/27ths of their annual salary. The disparity then will continue growing.
>
> "This result, in view of the ICTY statute's provision that the terms and conditions, including pension entitlements, of the ICTY judges are to be equivalent to those of the ICJ judges, is clearly contrary to the ICTY statute. Therefore, steps will need to be taken to correct the inequity that results from the present formula. In this regard, two issues arise: (a) the maximum benefit of 8/27ths of salary; and (b) the inequality that results from the application of the formula.
>
> "[I]t seems to us that the calculation is internally consistent, but produces inequitable results. In order to address the aforementioned inequity we propose two options for amending the pension scheme. One option would be to maintain the formula but to 'top up' the ICTY judges' pension benefit to the equivalent to that of an ICJ judge. This could be done by adding a provision to article 1, paragraph 2 (g) [of the pension scheme of the judges of ICTY].
>
> "The adoption of such an approach raises the question of why, in the case of a re-elected judge, there is any need for following the formula at all, as his or her pension benefit will ultimately be adjusted to be equivalent to that of an ICJ judge. Thus, as a second option, we have simply provided that the re-elected ICTY judge's pension benefit be the equivalent of that of an ICJ judge.
>
> "In addition, the cap of 8/27ths of their annual salary would have to be removed to allow the ICTY judges to receive the same amount as the ICJ judges. In this regard, I would also note that ICTY judges are not limited to two terms; thus the cap of 8/27ths of their annual salary was inappropriate in any event."

65. The President of ICTY, in his communication to the Secretary-General, has indicated that:

> "[I]t appears that, contrary to the provisions of the statute of ICTY, a significant disparity exists between the conditions of service of the judges of the International Tribunal and those of the judges of ICJ in respect of pensions ... Judges are elected to the International Tribunal pursuant to Security Council resolution 827 (1993), adopted on 25 May 1993. Article 13 bis (3) of the Tribunal's statute, adopted pursuant to that resolution and as amended by Security Council resolution 1329 (2000) of 30 November 2000, provides: 'The permanent judges elected in accordance with this article shall be elected for a term of four years. The terms and conditions of service shall be

those of judges of the International Court of Justice. They shall be eligible for re-election.'

"It seems that the problem has arisen because the scheme devised to take account of the comparison between the pensions of ICTY and ICJ judges gives undue weight to the length of their respective terms as distinct from their actual years of service. But pension rights should be a function of the actual years of service of a judge, irrespective of whether some of that service is performed in a second, third, or fourth term of office.

"The judges believe that there is no need for a mathematical formula to re-establish parity and to determine the pension of an ICTY judge. What is needed is an approach that recognizes, firstly, that pension is a function, not of the length of a judge's terms of service, but of a judge's actual years of service, irrespective of whether that service is performed in the first, second, third or fourth term; and secondly, that there is a continuum in service performed over more than one term."

66. Accordingly, the President of ICTY would propose the following formulation for consideration:

(a) The pension of an ICTY judge shall be that of an ICJ judge with the same years of service as the ICTY judges;

(b) If a judge has been re-elected, his or her pension benefit shall be equivalent to the pension benefit a judge of ICJ would receive for the same amount of actual time spent in service.

67. The President of ICTY has further specified that:

"[W]hat has been done in this formulation is that a statement of principle has been added to the proposal made by the former Registrar of the International Tribunal ... The provisions of article 1(2) of annex II contained in the Secretary-General's report (A/52/520), which deals with ICJ pensions after nine years of service, could also apply to ICTY judges, but only after nine years of service. This would contribute to ensuring parity and substantial equality in the way both groups of judges are considered."

II. Ad litem judges

A. Introduction

68. In his report to the General Assembly on the financing of ICTY (A/55/517), the Secretary-General indicated that, since its inception, the Tribunal had undergone rapid and continuous expansion. Accordingly, it was proposed to expand the trial capacity of the Tribunal by introducing the use of ad litem judges, as part of the medium- and longer-term measures designed to improve the operations of the Tribunal. The proposals were based on the study on the operation of the Tribunal, submitted as part of the report on the operation of the ICTY (see A/55/382-S/2000/865).

Background

69. The Security Council, acting under Chapter VII of the Charter of the United Nations, by its resolution 1329 (2000) of 30 November 2000, decided to establish a pool of ad litem judges in ICTY and to enlarge the membership of the Appeals Chambers of both ICTY and ICTR. The Council also decided to amend articles 12, 13 and 14 of the statute of the ICTY and articles 11, 12 and 13 of the statute of the ICTR. The statute of the ICTR was not amended to include a provision for the utilization of ad litem judges.

70. Under the new article 12 of the statute of the ICTY, entitled "Composition of the Chambers", the Chambers shall be composed of 16 (previously 14) permanent independent judges and a maximum at any one time of 9 ad litem independent judges (previously none). The article also stipulates that seven of the permanent judges shall be members of the Appeals Chamber. The revised article 14, entitled "Officers and members of the Chambers", includes provisions to the effect that two of the judges to be elected or appointed in accordance with article 12 of the statute of ICTR will be members of the Appeals Chamber. Under article 13 ter, after the Secretary-General invites nominations and the Security Council establishes a list of not less than 54 candidates, the General Assembly shall elect 27 ad litem judges of the Tribunal for a term of four years. Ad litem judges may be appointed by the Secretary-General, upon the request of the President of the Tribunal, to serve in the Trial Chambers for one or more trials for a cumulative period of up to, but not including, three years.

71. The General Assembly, by its resolution 55/225 A of 23 December 2000, took note of Security Council resolution 1329 (2000) concerning the establishment of a pool of ad litem judges in ICTY and decided to revert, at its resumed fifty-fifth session, to the consideration of resource requirements for the implementation of modifications to the statute of the Tribunal, without prejudice to the nomination and election of the ad litem judges.

B. Conditions of service

72. Further to General Assembly resolution 55/225, with respect to the request of the Advisory Committee regarding the conditions of service of the ad litem judges, the Secretary-General submitted his report (A/55/756) on the conditions of service of the ad litem judges of the International Tribunal for the Former Yugoslavia.

73. Under paragraphs 1 (e) and 2 of article 13 ter of the ICTY statute, ad litem judges shall be elected for a term of four years and they shall not be eligible for re-election.

74. During their term, ad litem judges will be appointed by the Secretary-General, upon the request of the President of the International Tribunal, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not including, three years. It should be noted that it may occur that an ad litem judge is not appointed to serve on any trials at all during his or her term of office. Conversely, it may equally well occur that, during that time, he or she will be appointed to serve on one or more trials (subject to a cumulative time limit). If he or she is appointed to serve on more than one trial, there is no requirement that the appointments must be immediately consecutive, one upon the other. There might therefore, and probably will, be breaks in service.

75. Paragraph 1 (a) of article 13 quater of the statute of the Tribunal specifies that during the period in which they are appointed to serve in the International Tribunal, ad litem judges shall benefit from the same terms and conditions of service mutatis mutandis as the permanent judges of the International Tribunal. However, ad litem judges would be entitled to receive benefits only once they have been appointed to serve on one or more trials and, if they are so appointed, they would be so entitled only for as long as and in respect of the period that they are so appointed.

76. As noted above, the General Assembly, by its resolution 53/214 of 18 December 1998, approved revisions in the emoluments of the members of the International Court and the judges of the International Tribunals with effect as from 1 January 1999. The Secretary-General thus proposed that the conditions of service approved by the General Assembly for the judges of the International Tribunals and the travel and subsistence regulations for the judges of the International Tribunals contained in annex III to this report (A/52/520) should be applied to the ad litem judges.

77. Accordingly, the Secretary-General proposed the following conditions of service to be applicable to ad litem judges:

(a) *Emoluments*. With regard to emoluments,

(i) Ad litem judges shall receive an annual salary of $160,000, prorated for length of service;

(ii) The floor/ceiling measures that are applicable to the members of the International Court of Justice and judges of the International Tribunal for the Former Yugoslavia shall also apply to the emoluments of ad litem judges serving at The Hague;

(b) *Travel costs and subsistence benefits*. Ad litem judges shall be entitled to payment of travel expenses and subsistence benefits as set forth in the travel and subsistence regulations for judges of the International Tribunal for the Former Yugoslavia and the judges of the International Criminal Tribunal for Rwanda contained in annex III to the Secretary-General's report (A/52/520);

(c) *Education allowance*. Ad litem judges shall be entitled to education allowance in accordance with the provisions contained in section II of General Assembly resolution 53/209 of 18 December 1998;

(d) *Survivors' lump-sum benefit*. The Secretary-General proposed that, in the event of death of an ad litem judge, survivors would be compensated in the form of a lump-sum payment equivalent to one month of base salary for each year of service, subject to a minimum of one month and a maximum of three months;

(e) *General conditions*. The following general conditions should apply to ad litem judges. Ad litem judges may not exercise any political or administrative function, or engage in any other occupation of a professional nature, during their appointment in office. The entitlements and allowances listed above shall be conditional on the residence of the ad litem judge at The Hague;

(f) *Medical insurance*. Ad litem judges, for the duration of their appointment, may participate in the medical insurance plan appropriate to their duty station under the same conditions applicable to the judges of the International Tribunals.

78. The Secretary-General further recommended that ad litem judges should not be entitled to pension benefits. He also specified that a judge who has retired from ICTY, ICTR or ICJ and is the recipient of a pension therefrom would not continue to receive that pension during the time he or she served as an ad litem judge.

79. Any period of service as an ad litem judge would not be counted towards and added for years of qualifying service that a judge might have with ICTY, ICTR or ICJ for pension purposes.

80. Concerning the establishment of disability benefits for ad litem judges, it was recognized by the Organization that there is a need to cover disability payment in respect of a service period. Therefore, it was proposed that, should an ad litem judge be found unable to perform his or her duties because of ill-health or disability, he or she would be entitled to receive payment of his or her salary for the service period. There would be no liability beyond that period.

81. By virtue of the limitation on their length of appointment, and taking into account the conditions applied to the permanent judges, ad litem judges would not be eligible for payment of relocation allowance.

82. The General Assembly was requested to consider approval of the conditions of service for ad litem judges as proposed by the Secretary-General in paragraphs 18 to 25 of his report (A/55/756).

83. The Advisory Committee, in paragraph 7 of its report (A/55/806), drew attention to the fact that judges of the ICJ are elected for a term of nine years and may be re-elected, and judges of the Tribunals are elected for a term of four years and may be re-elected; and that, on the other hand, the service of the ad litem judges is of a much more temporary nature and could be intermittent. This essential difference had been taken into account by the Committee in evaluating the necessity of a number of the entitlements and allowances proposed in the report of the Secretary-General.

84. Accordingly, the Advisory Committee agreed with the Secretary-General's proposals concerning the annual salary of $160,000, prorated for length of service and with application of the floor-ceiling measures, the proposal to extend the travel and subsistence regulations in effect for the judges of ICTY and ICTR be applied to the ad litem judges, and with the proposal to provide disability benefits limited to injury or illness attributable to service with the Tribunal.

85. The General Assembly, in its resolution 55/249 of 12 April 2001, endorsed the observations and recommendations of the Advisory Committee contained in its report (A/55/806, paras. 7-15) on the emoluments, travel and subsistence regulations and disability payments for the ad litem judges of ICTY.

86. The Registrar of ICTY has written to the Secretariat drawing attention to various concerns expressed by the six ad litem judges who commenced service at the International Tribunal on 10 September 2001. During their introductory briefings, the judges raised additional concerns with regard to some of their conditions of service as set out in the report of the Advisory Committee (A/55/806), namely education allowance and disability benefits.

87. It was recalled that the Advisory Committee had recommended in paragraph 11 of its report that ad litem judges shall not be entitled to receive education allowance. The Registrar has indicated that this recommendation has been met with

President from $15,000 to $20,000, which would represent an increase of some 30 per cent in the current level of the special allowance of the President of the Court and the President of ICTY and the President of ICTR. A commensurate increase in the allowance of the Vice-President of ICJ and the Vice-President of ICTY and the Vice-President of ICTR when acting as President, respectively, would result in the daily special allowance of the Vice-President being increased from $94 per day to $125 per day, subject to a maximum of $12,500 per year.

Education costs

92. Subsequent to the 2000 review of the level of the education grant by the International Civil Service Commission, the General Assembly, in section I.E of its resolution 55/223 of 23 December 2000, approved the following increases in the maximum reimbursement levels in five currency areas, as well as other adjustments to the management of the reimbursement of expenses under the education grant, effective as from the school year in progress on 1 January 2001, as recommended by the Commission in paragraphs 93 and 94 of its report to the General Assembly at its fifty-fifth session:[3]

Table 2
Education grant

	Maximum admissible educational expenses (local currency)[a]	*Maximum grant (local currency)*
Belgian franc	520 290	390 218
Irish pound	7 873	5 905
Italian lira	23 794 700	17 846 025
Swiss franc	24 372	18 279
United States dollar (in the United States of America)	23 445	17 584

[a] The amount of the special education grant for each disabled child is equal to 100 per cent of the revised amount of maximum admissible educational expenses for the regular education grant. In areas where education-related expenses are reimbursed in other currencies, the amounts remained unchanged.

93. The Secretary-General would propose that, further to General Assembly resolution 45/250 C of 21 December 1990, the increase in the level of education grant (including that for disabled children), effective 1 January 2001, applicable to staff in the Professional and higher categories approved by the Assembly in section I.E of Assembly resolution 55/223, should be extended, under the same conditions, to the members of the Court, the judges of ICTY and the judges of ICTR as from the school year in progress on 1 January 2001. The programme budget implications of the proposed change are discussed in paragraph 107 below.

94. The International Civil Service Commission will next review the education grant in 2002. In accordance with paragraph 7 of the seventh report of the Advisory Committee to the General Assembly at its forty-eighth session (A/48/7/Add.6), the next review of the costs of educating children of the members of ICJ would be conducted at the time of the next comprehensive review of the conditions of service.

Travel and subsistence regulations

95. The General Assembly, by its resolution 37/240 of 21 December 1982, approved the travel and subsistence regulations of ICJ. In section VIII, paragraph 5, of its resolution 53/214 of 18 December 1998, the Assembly also approved the travel and subsistence regulations of the judges of ICTY and the judges of ICTR contained in annex III to the report of the Secretary-General (A/52/520).

96. Article III of the travel and subsistence regulations of ICJ and of ICTY and ICTR are entitled "Removal and installation". Under paragraph 1 (a) (ii) of the ICJ travel and subsistence regulations, it is specified that "the President of the Court ... and any other member of the Court who takes up residence at the seat of the Court ... shall be entitled ... to an amount corresponding to the installation grant provisions applicable to senior officials of the Secretariat of the United Nations". Likewise, paragraph 1 (b) of the travel and subsistence regulations of the judges of ICTY and the judges of ICTR provides that "the judges of the International Tribunal who shall reside at the seat of the Tribunal and who take up residence at the seat of the Tribunal, shall be entitled ... to an amount corresponding to the installation grant provisions applicable to senior officials of the Secretariat of the United Nations".

97. In this regard, the Secretary-General would wish to point out that, as a result of the action taken by the General Assembly in section I.E of its resolution 44/198 of 21 December 1989, the entitlement under installation grant was discontinued and replaced by the introduction of the assignment grant, effective as from 1 July 1990. In the light of a number of questions of interpretation concerning the entitlement to installation grant provisions, especially as they apply to the judges of ICTR, the Secretary-General would thus propose that the language contained under the travel and subsistence regulations applicable to the members of the Court and the Tribunals, respectively, be updated and that the reference to "installation grant" be revised to make reference to the "assignment grant" provisions applicable to senior officials of the Secretariat of the United Nations.

Health insurance

98. As indicated above, the basis for the participation of the members of ICJ in a health plan of the Organization has always been based on the premise that the members of the Court would cover the total cost of their participation and that the Organization would not have to contribute at all to the cost of their participation and that the judges of ICJ should meet the same requirements for participation as those met by the full-time members of subsidiary bodies who are participants in the health insurance plans at full premium. Accordingly, in addition to their option of joining the Delta Lloyd (formerly Nuts-Ageon, based in The Hague), members of ICJ retain the option of joining the Van Breda plan, or the Headquarters health plan if they choose to retire in the United States, upon payment of the full cost of the premium. The Secretary-General would observe that the Organization has made provisions for the judges of ICTY and the judges of ICTR, upon their appointment, to participate in an appropriate United Nations medical insurance plan in accordance with the relevant administrative rules and procedures, at full premium.

99. The Secretary-General would note that, unlike staff members, members of ICJ as well as the judges of ICTY and the judges of ICTR are not required to undergo medical clearance for service with the Organization. With regard to the arguments put forth by the President of ICTR concerning the provision of health insurance to

the judges of the Tribunals, the Secretary-General would recall that, in his communication of 10 January 2000 to the President of ICTR, the Under-Secretary-General for Management advised that there was agreement that arrangements would be made for the judges for the duration of their appointment with the Tribunal to participate in the official United Nations health plan together with their eligible dependants (eligibility as defined by the relevant administrative issuances). Participation for the duration of their appointments would be on the same conditions that other non-staff members, for example the Chairman of the Advisory Committee on Administrative and Budgetary Questions and the Chairman of the International Civil Service Commission, were allowed to participate.

Hardship classification of duty stations and home leave travel

100. As noted in paragraph 54 above, the issue of the application of certain entitlements which may arise based on the hardship classification of duty stations required the Secretary-General to seek guidance concerning the payment of installation grant to the judges of ICTR as provided for under article III of the travel and subsistence regulations of the judges of ICTY and the judges of ICTR. The Office of Legal Affairs confirmed that the provisions of General Assembly resolution 53/214 appear to confer upon the judges, upon their taking up residence at the pertinent Tribunal, an entitlement to be paid an installation grant at the level which is currently applicable to senior officials of the Secretariat of the United Nations, serving at that same duty station.

101. Concerning the issue of the cycle of home leave travel for the judges of ICTR, the Secretary-General would note that, should the Advisory Committee recommend and the General Assembly agree to a change in the home leave travel of the judges of ICTR to take account of the hardship classification of the duty station, there would be a need to revise the language of paragraph 1 (b) of article I of the travel and subsistence regulations for the judges of ICTY and the judges of ICTR.

Retirement benefits

102. As outlined in paragraphs 40 and 41 above, ICJ, which is concerned by the unequal level of pension payments to former members, would appreciate it if steps could be taken to remedy this disparity in payments by an increase, to the extent possible, in pension payments to former members. It would be the Secretary-General's view that, as the General Assembly is the sole authority to determine the conditions of service and pension benefits of the Court, the issue of pensions in payment should be brought to the attention of the Assembly for its consideration.

103. With regard to the points raised by the Registry of ICTY concerning pension benefits of the judges of the Tribunal, the Secretary-General would observe that the General Assembly approved a pension scheme for the judges of ICTY and the judges of ICTR based on the recommendations contained in paragraph 29 of the report of the Advisory Committee (A/53/7/Add.6), whereby the Committee recommended that the pension benefit for the judges of ICTY and ICTR should be based on that applicable to the judges of ICJ, prorated to account for the difference in length in the terms of appointment, that is to say, nine years for the members of ICJ versus four years for the judges of both Tribunals. It would be the Secretary-General's view that, as the General Assembly is the sole authority to determine the conditions of service and the pension benefits of the judges of ICTY and the judges

of ICTR, the existing disparity between the pension benefits of the ICTY judges and that of the judges of ICJ should be brought to the attention of the General Assembly for its consideration, in the light of the arguments put forward by the Registrar and the President of the International Tribunal.

Ad hoc judges

104. The Secretary-General proposes that no change be effected in the arrangements for ad hoc judges on the occasion of this periodic review.

Ad litem judges

105. Concerning the issue of providing educational assistance to the ad litem judges, it would be the Secretary-General's view that, as the General Assembly is the sole authority to determine the conditions of service of the ad litem judges, the issue should be brought to the attention of the General Assembly for its consideration.

106. As for the guidance requested concerning the interpretation of service-related injuries and illnesses, it will be recalled that there is a set of guidelines set out in Secretary-General's bulletin ST/SGB/103/Rev.1, entitled, "Rules Governing Compensation to Members of Commissions, Committees or Similar Bodies in the Event of Death, Injury or Illness Attributable to Service with the United Nations". Accordingly, the determination of disability due to injury or illness of ad litem judges of ICTY would be determined in accordance with the provisions set forth in ST/SGB/103/Rev.1.

II. Financial implications

107. Should the General Assembly approve the proposals contained in paragraphs 91, 93 and 97 above, the programme budget implications of the increase in President's special allowance and the special allowance of the Vice-President for each day that he/she shall exercise the functions of the President of the Court or of either of the two Tribunals and costs of educating children of the members of ICJ and the judges of ICTY and the judges of ICTR are estimated at $48,600 for the biennium 2002-2003, as reflected in table 3. No changes are proposed to the other conditions of service of the members of the Court or the judges of ICTY and the judges of ICTR.

Table 3

Programme budget implications of proposals contained in paragraphs 91, 93 and 97 of the report on the conditions of service and compensation for officials other than Secretariat officials
Biennium 2002-2003

Members of the International Court of Justice

	Provisions included in section 7, ICJ, of the proposed programme budget for the biennium 2002-2003[a]	*Additional requirements that would result from the adoption of the report's recommendations*	*Revised total estimates that would have to be included in the proposed programme budget for the biennium 2002-2003*
Special allowance of the President (increase)	30 000	10 000	40 000
Special allowance of the Vice-President when acting as President (increase)	18 800	6 200	25 000
Education grant[b]			
Assignment grant lump sum[c]			
Total	**48 800**	**16 200**	**65 000**

[a] A/56/6 (sect. 7).
[b] Based on the current composition of the Court, the recommendations contained in the report have no implications for the proposed programme budget for 2002-2003.
[c] Assignment grants for members of ICJ fall under the provisions for unforeseen and extraordinary expenses.

Judges of the International Tribunal for the Former Yugoslavia

	Provisions included in ICTY budget for 2002-2003	*Additional requirements that would result from the adoption of the report's recommendations*	*Revised total estimates that would have to be included in the proposed programme budget for the biennium 2002-2003*
Special allowance of the President (increase)	30 000	10 000	40 000
Special allowance of the Vice-President when acting as President (increase)	18 800	6 200	25 000
Education grant[a]			
Assignment grant lump sum[b]			
Total	**48 800**	**16 200**	**65 000**

[a] Based on the current composition of the Court, the recommendations contained in the report have no implications for the proposed programme budget for 2002-2003.
[b] The recommendations in the report have no implications for the proposed programme budget for 2002-2003.

Judges of the International Criminal Tribunal for Rwanda

	Provisions included in ICTR budget for 2002-2003	*Additional requirements that would result from the adoption of the report's recommendations*	*Revised total estimates that would have to be included in the proposed programme budget for the biennium 2002-2003*
Special allowance of the President (increase)	30 000	10 000	40 000
Special allowance of the Vice-President when acting as President (increase)	18 800	6 200	25 000
Education grant[a]			
Assignment grant lump sum[b]			
Total	**48 800**	**16 200**	**65 000**

[a] Based on the current composition of the Court, the recommendations contained in the report have no implications for the proposed programme budget for 2002-2003.

[b] The recommendations in the report have no implications for the proposed programme budget for 2002-2003.

III. Next comprehensive review

108. By its resolution, 53/214 of 18 December 1998, the General Assembly decided that the next comprehensive review of the conditions of service for the members of ICJ, the judges of ICTY and the judges of ICTR shall take place at its fifty-sixth session. Should the General Assembly decide to continue the three-year review cycle, the next comprehensive review by the Assembly would be undertaken at its fifty-ninth session in 2004.

Notes

[1] *Official Records of the General Assembly, Fiftieth Session, Supplement No. 7A* (A/50/7/Add.1-16), document A/50/7/Add.11.

[2] Ibid., *Forty-ninth Session, Supplement No. 7* (A/49/7 and Add.1-14), document A/49/7/Add.11, paras. 6-8).

[3] A/C.5/50/18, para. 27.

[4] *Official Records of the General Assembly, Fiftieth Session, Supplement No. 7A* (A/50/7/Add.1-16), document A/50/7/Add.11.

[5] General Assembly resolution 50/216, sect. IV, para. 2.

[6] Ibid., para. 3.

Annex I

Changes in net remuneration of members of the Court, Secretariat officials and members of United Nations bodies, 1998-2001

(In United States dollars, dependency rate)

	January 1998	*January 1999*	*January 2000*	*January 2001*	*June 2001*
International Court of Justice					
President[a]	160 000	175 000	175 000	175 000	175 000
Index	100.0	109.4	109.4	109.4	109.4
Members of the Court	145 000	160 000	160 000	160 000	160 000
Index	100.0	110.3	110.3	110.3	110.3
Senior Secretariat officials					
The Hague					
USG[b]	130 492	141 467	124 989	121 334	119 810
Index	100.0	108.4	95.8	92.9	91.1
ASG[c]	119 022	129 081	113 970	110 617	109 219
Index	100.0	108.4	95.7	92.9	91.7
Geneva					
USG[b]	161 207	170 676	148 957	145 905	120 720
Index	100.0	105.9	92.4	90.5	74.9
ASG[c]	147 187	155 871	135 953	133 153	110 054
Index	100.0	105.9	92.4	90.5	74.8
New York					
USG[b]	149 617	153 620	159 004	164 631	163 632
Index	100.0	102.7	106.7	110.3	110.3
ASG[c]	136 557	140 228	145 169	150 329	150 329
Index	100.0	102.7	106.3	110.1	110.1
Full-time members of subsidiary bodies					
Chairman, ICSC/ACABQ[d]	143 692	143 692	143 692	159 691	159 691
Index	100.0	100.0	100.0	111.1	111.1
Vice-Chairman, ICSC	135 692	135 692	135 692	149 691	149 691
Index	100.0	100.0	100.0	110.3	110.3
Members of JIU, Geneva	127 722	126 122	117 771	115 291	94 829
Index	100.0	98.7	92.2	90.3	74.2

[a] Includes special allowance of $15,000.
[b] Includes representation allowance of $4,000 a year.
[c] Includes representation allowance of $3,000 a year.
[d] Includes special allowance of $8,000 a year. Effective 1 January 2001, includes a special allowance of $10,000 a year.

Annex II

Movement in gross emoluments of officers of national judiciaries, the Court of the European Communities, the European Court of Human Rights and the Iran-United States Claims Tribunal, 1998-2001

	1998	*1999*	*2000*	*2001*
1. United States Supreme Court				
Chief Justice (US$)	175 400	175 400	131 400	186 300
Index	100.0	100.0	103.4	106.2
Associate Justice (US$)	167 900	167 900	173 600	178 300
Index	100.0	100.0	103.4	106.2
2. Supreme Court of Canada				
Chief Justice ($Can)[a,b]	208 200	-	254 500[c]	254 500
(US$)	147 660		174 315	162 102
Index	100.0		118.1	109.8
Puisne judge ($Can)[b,d]	192 900	-	235 700	235 700
(US$)	136 809		161 438	150 127
Index	100.0		118.0	109.7
3. United Kingdom				
Lord Chief Justice (£)	140 006	157 511	165 260	171 375
(US$)	233 347	262 518	266 548	252 022
Index	100.0	112.5	114.2	108.0
Master of the Rolls (£)	131 034	147 214	157 390	163 213
(US$)	218 390	245 357	253 855	240 019
Index	100.0	112.3	116.2	109.9
4. Australia				
Chief Justice (Aus.$)[c]	253 348	253 348	264 600	276 800
(US$)	165 587	155 048	172 941	153 778
Index	100.0	93.6	104.4	92.9
Justice (Aus.$)[c]	230 309	230 309	240 100	251 200
(US$)	150 529	140 948	156 928	139 556
Index	100.0	93.6	104.3	92.7
5. Japan				
Chief Justice (¥)	44 883 240	44 737 919	44 187 032	44 187 032
(US$)	345 256	389 025	433 206	384 235
Index	100.0	112.7	125.5	111.3
Associate Judge (¥)	32 755 847	32 660 234	32 258 067	32 258 067
(US$)	251 968	284 002	316 256	280 505
Index	100.0	112.7	125.5	111.3
6. Court of the European Communities				
President (€)	-	229 701.60	235 903.68	240 857.88
(US$)	-	268 030	237 089	224 116
Index	-	100.0	88.5	83.6

	1998	1999	2000	2001
Member (€)	-	187 256.76	192 312.72	196 351.56
(US$)	-	218 503	193 279	182 704
Index	-	100.0	88.5	83.6
7. European Court of Human Rights				
President (FF)[f]	1 100 000	1 100 000		172 730[i,j]
(US$)	193 000[g]	195 657		160 724[k]
Index	100.0	101.3		83.3
Member (FF)[h]	1 100 000	1 100 000		172 730[i]
(US$)	193 000[g]	195 657		160 724[k]
Index	100.0	101.3		83.3
8. Iran-United States Tribunal				
President (US$)	252 000			245 000
Index	100.0			97.2
United States-Iranian Judge	217 500			210 000
Index	100.0			96.6
Third country judge	242 500			235 000
Index	100.0			96.9

[a] Also entitled to a representation allowance of $Can 10,000.
[b] Also entitled to an incidental allowance of $Can 2,500.
[c] Salary effective as from 1 April 2000.
[d] Also entitled to a representation allowance of $Can 5,000.
[e] Also entitled to an annual allowance of Aus$ 20,000.
[f] Salary will become effective 1 November 1998. Also entitled to annual additional remuneration of FF 75,000, paid on pro rata temporis basis.
[g] Estimated United States dollar amount derived using exchange rate of FF 5.7 = US$ 1.00.
[h] Salary became effective 1 November 1998. Also entitled to annual additional remuneration of FF 37,500, paid on pro rata temporis basis.
[i] Salary expressed in euros.
[j] Also entitled to annual allowance of 11,740 euros.
[k] United States dollar amount derived using exchange rate of 1.0747 euros = US$ 1.00.